

FILED
U.S. DISTRICT COURTIN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH – CENTRAL DIVISION2007 FEB 14 A 9:51
DISTRICT OF UTAH

U.S. GENERAL, INC., et al.,

Plaintiffs,

v.

DRAPER CITY, et al.,

Defendants.

BY: DEPUTY CLERK
MEMORANDUM OPINION AND
ORDER

Case No. 2:06cv488

Judge Dee Benson

Plaintiffs filed a complaint commencing this action on June 16, 2006 after Judge Ted Stewart of this District Court dismissed Plaintiffs' antitrust claims without prejudice in a prior case on June 7, 2006. In their new complaint, the Plaintiffs have sought to cure the defects that plagued the prior complaint. Two of the defendants in this action, Suncrest, LLC ("Suncrest") and Westerra Management, LLC ("Westerra") have moved this Court to dismiss the claims against them pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. (Docket #3).

Defendant Draper City has now joined in Suncrest's and Westerra's Motion to Dismiss. (Docket #23). In addition, Draper City has filed its own Motion to Dismiss, raising alternative and additional grounds for dismissal. The alternative bases rest on the Local Government Antitrust Act, 15 U.S.C. §§ 34-36, and the state action immunity doctrine announced in *Parker v. Brown*, 317 U.S. 341 (1943), and further elaborated in *City of Columbia v. Omni Outdoor Adver., Inc.*, 499 U.S. 365 (1991).

Defendant Draper City's motion is GRANTED and the Plaintiffs' claims are hereby DISMISSED WITH PREJUDICE in accordance with the above-stated authorities and for the reasons announced by the court in its Memorandum Opinion and Order in granting Suncrest's and Westerra's Motion to Dismiss ((1) failure to adequately plead a relevant market; (2) immunity pursuant to the Noer-Pennington doctrine; and (3) failure to adequately plead injury to competition). The Court adopts the reasoning and arguments in Defendant Draper City's briefs.

IT IS SO ORDERED.

DATED this 15th day of February, 2007.

A handwritten signature in black ink, reading "Dee Benson", written over a horizontal line.

JUDGE DEE BENSON
District Court Judge